

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - SW/Corner Melrose Avenue and a private road 210' S of Old Court Road (2732 Melrose Avenue) 2nd Election District 1st Councilmanic District

* BEFORE THE * DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY * Case No. 94-103-SPHA

Charles R. Brown, et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing and a Petition for Variance filed by the owners of the subject property, Charles R. and Joyce A. Brown. The Petitioners request a special hearing to approve an existing "Granny Apartment" on the subject property and an "Accessory Use Determination" that the existing and proposed garage buildings are accessory to the primary residential uses on the subject site. The Petitioners also seek variance relief from Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit accessory structures (existing garage and proposed new garage) with total dimensional square footage of 26 sq.ft. more than the principal structure. The relief sought is more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Charles R. Brown, property owner, Samuel Quinn, Mr. Brown's father-in-law, and Donald Hamilton and Donald R. Blizzard, nearby property owners. The Petitioners were represented by Douglas L. Burgess, Esquire.

Testimony indicated that the subject property, known as 2732 Melrose Avenue, consists of 1.67 acres zoned R.C. 5 and is improved with a single family dwelling and a 24' x 30' garage, the second floor of which has been converted to an apartment. The Petitioner's father-in-law, Samuel

Quinn, currently resides in the apartment. The Petitioners propose to construct another garage, 18' x 33' in dimension, to the rear of the property for purposes of providing storage space for the Petitioners' antique cars, lawn tractor, and other garden tools and equipment, etc. Testimony indicated that the existing apartment was created in 1984 to enable the Petitioner's in-laws to reside on the property. Mr. Quinn's wife recently passed away last spring and he continues to reside in the apartment alone. The Petitioners have requested the special hearing to approve the continued use of the apartment by Mr. Quinn.

As to the proposed garage, testimony indicated that the Petitioners collect antique cars and currently own three. The proposed garage will be constructed toward the rear of the property along the southern property line and situated on an old foundation. The relief sought within the Petitions for Special Hearing and Variance are necessary in order for the Petitioners to proceed as proposed. Further testimony revealed that when calculating the square footage of the two accessory structures, including the in-law apartment, the total square footage exceeds that of the principal residence on the property. Therefore, the petitioners seek variance relief to permit the two accessory structures to exceed the principal dwelling in square footage.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing and variance relief are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structures which are the subject of the relief sought and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the special hearing and variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of October, 1993 that the Petition for Special Hearing requesting approval of the continued use of an existing

"Granny Apartment" on the second floor of the existing garage, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the restrictions set forth hereinafter, and,

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking an "Accessory Use Determination" that the existing and proposed garage buildings are accessory to the primary residential uses on the subject site, be and is hereby GRANTED, subject to the restrictions set forth hereinafter, and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit accessory structures (existing garage and proposed new garage) with total dimensional square footage of 26 sq.ft. more than the principal structure, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk and that time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The proposed garage is limited to 26 sq.ft. as set forth on Petitioner's Exhibit 1.
- 3) The existing apartment located on the second floor of the existing garage shall be occupied only by the Petitioner's father-in-law, Samuel V. Quinn. There shall be no public rental of the subject apartment, nor shall any other family member be permitted to reside in the apartment without a public hearing to determine the appropriateness of same. In the event Mr. Quinn no longer resides on the property or the property is sold, leased or transferred, the subject apartment shall be recovered to garage use. Specifically, any kitchen or cooking facilities located within the apartment shall be removed.
- 4) In the event the Petitioners desire to sell the property, it shall be listed and sold as a single

ORDER RECEIVED FOR FILING
Date 11/8/93
By [Signature]

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family dwelling with two accessory structures and shall in now way be represented as apartments or multi-family dwelling units.

5) Within sixty (60) days of the date of this Order, and prior to the issuance of any building permits, the Petitioners shall cause a copy of this Order to be recorded in the Land Records of Baltimore County so that any potential purchaser of the subject property will be aware of this case and the terms and conditions of the relief granted.

6) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TNK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

October 27, 1993

Douglas L. Burgess, Esquire
Nolan, Plumbhoff & Williams
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
SW/Corner Melrose Avenue and a private road 210' S of Old Court Road
(2732 Melrose Avenue)
2nd Election District - 1st Councilmanic District
Charles R. Brown, et ux - Petitioners
Case No. 94-103-SPHA

Dear Mr. Burgess:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-3391.

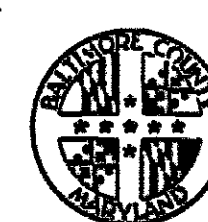
Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TNK:bjs

cc: Mr. & Mrs. Charles R. Brown
2732 Melrose Avenue, Woodstock, Md. 21163

People's Counsel
File



Petition for Special Hearing 94-103-SPHA to the Zoning Commissioner of Baltimore County

for the property located at 2732 Melrose Avenue, Woodstock, MD 21163
which is presently zoned R.C.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. (Map E-1 - 1000 scale)
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See Exhibit A attached hereto and incorporated herein.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Purchaser/Owner
N/A
Date of Petition
Signature
Address
City
State
Zip

With an attorney chosen and office, under the penalties of perjury, that they are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)
CHARLES R. BROWN
JOYCE A. BROWN
JAMES A. BROWN
2732 Melrose Avenue
Woodstock, MD 21163
441-3999

Attorney for Petitioner
Douglas L. Burgess, Esquire
Nolan, Plumbhoff & Williams
210 W. Pennsylvania Ave.
Towson, MD 21204
410-887-4386

ORDER RECEIVED FOR FILING
Date 11/8/93
By [Signature]

SPECIAL HEARING
2732 Melrose Avenue
Woodstock, Maryland 21163

EXHIBIT A

94-103-SPHA

- 1) "Granny Apartment"
Additional temporary use to allow Samuel V. Quinn, age 69 and father of Joyce A. Brown, to continue to reside in and maintain a "granny apartment" on the .67 acre site that exists on the second floor of the detached garage of the site. The Petitioner therefore asks for a temporary use permit pursuant to the Commissioner's interpretative powers under Section 500.7 of the Regulations to allow the continuation of said "granny apartment". The Petitioner requests said "granny apartment" continue until the said Mr. Quinn passes away or the property is sold, whichever shall occur first.

The Petitioners agree to and request a deed restriction as part of this Commissioner's Order in the case in order to assure Baltimore County and the community that this will be a temporary use zoning approval.

The reasons are as follows:

- a. Samuel V. Quinn is an elderly member of the Brown family and has resided in an apartment above the family garage for several years.
- b. Mr. Quinn would like to continue his retirement living with dignity and be close to his family and daughter.
- c. Mrs. Brown is a homemaker and is able to stay home and be with her father, Samuel V. Quinn. At the same time, Mr. Quinn would like to maintain his dignity and independence by having a separate "granny apartment".
- d. The Brown parcel is a large property whose structures are several hundred feet from the neighbors. Given the size of the parcel, there has been and will be no adverse impact on the neighborhood. Furthermore, the use will cease based on the deed restriction. Accordingly, any impact will be minimal and limited in time.

SPECIAL HEARING

2732 Melrose Avenue
Woodstock, Maryland 21163

EXHIBIT A (cont'd)

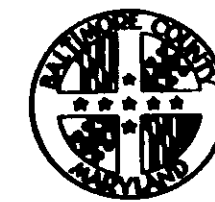
94-103-SPHA

2) "Accessory Use Determination"

The proposed new second garage, as well as the first garage, as accessory uses to the primary residential uses of the property as defined by Section 101 of the Baltimore County Zoning Regulations. The reasons in support of this request are as follows:

- The primary use of the site is residential. It is used as a home for Mr. and Mrs. Charles Brown and their daughter.
- The accessory structures are subordinate to the primary use because:
 - the granny apartment in the existing garage is there only so Mr. Quinn, age 69, can live near his daughter, Joyce Brown, during the remainder of his elder years;
 - the balance of the existing garage, as well as the proposed new garage, will be used for storage for Mr. Brown, including the following: antique cars, garden and lawn tractor and yard equipment, work bench, tools and supplies.

5079C DLB/caw



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2732 Melrose Ave. Woodstock, Md. 21163 which is presently zoned RCS

This Petition shall be filed with the Office of Zoning Administration & Development Management, (Map E-1, 1000 scale) The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

See Attached Exhibit A

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

See Attached Exhibit A

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Owner

N/A

(Type or Print Name)

Signature

Address

City

State

Zip Code

Attorney for Petitioner

Douglas L. Burgess, Esq.

(Type or Print Name)

Address

City

State

Zip Code

Telephone

Fax

E-mail

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While do solemnly declare and affirm, under the penalties of perjury, that true are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)

CHARLES R. BROWN

(Type or Print Name)

Signature

JOYCE A. BROWN

(Type or Print Name)

Signature

JOYCE A. BROWN

(Type or Print Name)

Address

2732 Melrose Ave. 461-2898

City

Woodstock Md 21163

State

Zip Code

Telephone

Fax

E-mail

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VARIANCE

2732 Melrose Avenue
Woodstock, Maryland 21163

EXHIBIT A

94-103-SPHA

Variance from Section 101 (Definition of Accessory Use) to allow accessory structures (existing garage, plus proposed new second garage) with total dimensional square footage of twenty-six (26) square feet more for the accessory structures than the main structure, to wit, the residential house.

The reasons for this are as follows:

- This requested variance is de minimis and a matter of a few square feet.
- The Browns have a large lot and it can easily support large accessory structures.
- Without a variance, the Browns will continue to lack adequate indoor storage space for antique cars, which is a concern of the Baltimore County Zoning Office.
- The garage dimensions are needed in order to contain all cars inside and out of sight.
- The Petitioner will suffer practical difficulty and unreasonable hardship if they cannot utilize their very large residential lot as requested in order to clean up and beautify their lot consistent with the request of the Baltimore County Zoning Office.

5079C DLB/caw

ZONING DESCRIPTION OF 2732 MELROSE AVE., GRANITE, MD (EDD, CO.) (NOT FOR CONVEYANCE PURPOSES) 94-103-SPHA

FROM THE S/W CORNER OF OLD COURT RD. AND MELROSE AVE. IN GRANITE, MD., THENCE SOUTHWESTALY 210' FEET TO THE SOUTHWEST CORNER OF MELROSE AVE. AND A PRIVATE ROAD NAMED PAUL'S FARM ROAD AND BEING THE POINT OF BEGINNING, THENCE FOR OUTLINE OF THE PROPERTY THE FOLLOWING COURSES AND DISTANCES:

- 1) S13°W 140.34 FEET, THENCE
- 2) N 79° 30' W 486 FEET, THENCE
- 3) N 3° E 151.5 FEET, THENCE
- 4) S 79° E 515 FEET TO PLACE OF BEGINNING

BEING 1.67 ACRES MORE OR LESS AS SHOWN ON DEED DATED APRIL 23, 1981 FROM EDWARD H. TRUPPERT AND EVELYN C. TRUPPERT TO CHARLES R. BROWN AND JOYCE ANN BROWN, HIS WIFE + RECORDED IN THE LAND RECORDS OF BALTO. CO. AT LIBER 6280 FOLIO 722.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 9/29/93
 Posted for: Special Hearing to Varyance
 Petitioner: Charles R. Brown
 Location of property: 2732 Melrose Ave. Woodstock, Md. 21163
 Location of Sign: 2732 Melrose Ave. Woodstock, Md. 21163
 Remarks: See Attached Exhibit A
 Posted by: Charles R. Brown Date of return: 10/1/93
 Number of Signs: 1

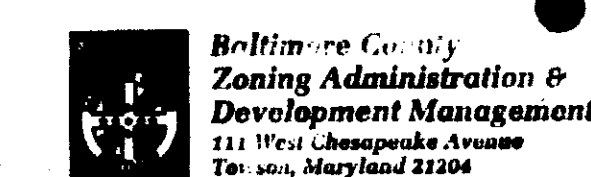
CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept 16, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Sept 16, 1993.

THE JEFFERSONIAN,

A. Henickson
LEGAL AD. - TOWSON

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

94-103-SPHA

Account: R-001-4190

Number: 106

JLL

9/2/93

CODES 010 VAR FILING 50.00

030 SPN FILING 50.00

080 (B)INS 70.00

\$170.00

NAME CHARLES BROWN

LOC. 2732 MELROSE AVE.

03A030318M1CHRC

BA CD10:41AND9-02-93

Please Make Checks Payable To: Baltimore County

Certificate

Date

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receipt

11 West Chesapeake Avenue
Towson, MD 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- Posting fees will be assessed and paid to this office at the time of filing.
- Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon, DIRECTOR

For newspaper advertising:

Item No.: 106Petitioner: Charles R. BrownLocation: 2732 MELROSE AVE, GRANITE MD 21163

PLEASE FORWARD ADVERTISING BILL TO:

NAME: SPME

ADDRESS:

PHONE NUMBER: 410-461-5318

AJ:ggg (Revised 04/09/93)



Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management11 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEPTEMBER 13, 1993

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204.

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-103-SPHA (Item 106)

2732 Melrose Avenue

SAC Melrose Avenue and private road 210' S of Old Court Road

2nd Election District - 1st Councilmanic

Petitioner(s): Charles R. Brown and Joyce A. Brown

HEARING: MONDAY, OCTOBER 18, 1993 at 11:00 a.m. in Room 118, Old Courthouse.

Special Hearing to permit a granny apartment (2 dwellings on 1 lot) and to determine what is considered accessory on site.

Variance to allow accessory structures (existing garage plus proposed new second garage) with total dimensional square footage of 26 square feet more for the accessory structures than the main structure.

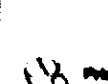
Arnold Jablon, DIRECTOR

Charles and Joyce Brown
Douglas L. Burgess, Esq.
Baltimore County
Berkley Realty

NOTES: (1) SHOWING SIGN & POST MUST BE RETURNED TO RM. 106, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(3) FOR INFORMATION CONCERNING THE FILE NUMBER HEARING, CONTACT THIS OFFICE AT 887-3353.



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on Recycled Paper

